

COUNTY OF YORK

2009

LEGISLATIVE PROGRAM



BOARD OF SUPERVISORS

Thomas G. Shepperd, Jr., Chairman

Walter C. Zaremba, Vice Chairman

George S. Hrichak

Sheila S. Noll

Donald E. Wiggins

COUNTY ADMINISTRATOR

James O. McReynolds

COUNTY ATTORNEY

James E. Barnett

Prepared by the Office of the County Attorney

Introduction

The Board of Supervisors is pleased to commend this Legislative Program for consideration by the 2009 General Assembly. It was adopted and endorsed by the Board on October 7, 2008, by Resolution R08-113.

With the support of our legislators, I know that our County government will be improved and the quality of life for our citizens will be enhanced. If, during the course of the session, our legislators have questions concerning the position of the County on legislative matters, they are encouraged to contact James O. McReynolds, County Administrator, at 890-3320, James E. Barnett, County Attorney, at 890-3340, or Anne B. Smith, Director of Community Services, at 890-3880, who would be pleased to respond to any questions that you might have with regard to the legislation proposed.

Thomas G. Shepperd, Jr., Chairman
Board of Supervisors

BOARD OF SUPERVISORS
COUNTY OF YORK
YORKTOWN, VIRGINIA

Resolution

At a regular meeting of the York County Board of Supervisors held in the Board Room, York Hall, Yorktown, Virginia, on the 18th day of November, 2008:

<u>Present</u>	<u>Vote</u>
Thomas G. Shepperd, Jr., Chairman	Yea
Walter C. Zaremba, Vice Chairman	Yea
Sheila S. Noll	Yea
George S. Hrichak	Yea
Donald E. Wiggins	Yea

On motion of Mrs. Noll, which carried 5:0, the following resolution was adopted:

A RESOLUTION APPROVING THE COUNTY'S 2009 LEGISLATIVE PROGRAM

WHEREAS, because of the applicability of Dillon's Rule in Virginia, York County is dependent upon the General Assembly to adopt specific enabling legislation in many instances in order to enable the County to provide efficient and effective services and government to its citizens; and

WHEREAS, the County has developed a Legislative Program for the consideration of the 2009 session of the General Assembly which outlines certain legislative policies which the Board believes ought to guide the General Assembly and proposes certain legislation that would benefit the County; and

WHEREAS, the Board has carefully considered its legislative program, and believes that it is in the best interests of the citizens of York County;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 18th day of November, 2008, that this Board hereby approves the County's 2009 Legislative Program, and commends it to the County's representatives in the General Assembly for action.

BE IT FURTHER RESOLVED that copies of this Resolution and the County's 2009 Legislative Program be forwarded to the County's elected representatives to the General Assembly.

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Fully Fund the Commonwealth's Obligation to Provide a Statewide Transportation System

The recent and ongoing debates over Virginia's growing transportation needs, and the proper means to fund necessary infrastructure construction and repair do not need to be summarized. York County is of the view that the transportation needs of Hampton Roads cannot, and should not, be the responsibility solely of the residents of Hampton Roads to bear. Rather, we view transportation as a Statewide issue which will of necessity require a Statewide resolution, and that all citizens of the Commonwealth must recognize our mutual interdependency. Indeed, the citizens of the Commonwealth have shown their dissatisfaction with regional approaches to this complex problem. We ask the General Assembly to provide a comprehensive Statewide transportation program for highway expansion and maintenance to include bridges, overpasses, roadside ditches for drainage, and related infrastructure.

Do not Restrict Local Government Authority to Establish Real Estate Tax Rates, or Place Artificial Limits on the Assessment of Real Property at Fair Market Value

Over the last several General Assembly sessions, bills have been introduced which, in one way or another, would either disengage the local real estate assessment process from actual fair market value (by, for example, establishing a property's tax assessed value as of the date of its most recent sale) or placing caps on revenues which localities may raise through real estate taxation. In recent years, as real estate values have risen dramatically in some localities, there has been increasing pressure on the General Assembly to adopt legislation which would restrict local government authority by one means or another. Believing that government is best which is closest to the people, we feel that local government budgets and tax rates should be left entirely in the hands of elected local government officials who remain answerable to their constituents through the electoral process. We also believe that any taxing methodology based upon real estate values can be fair and equitable only if it is based upon actual values applied across the board. To adopt any other approach could result in similar, even adjacent, properties being taxed at markedly different rates, depending primarily on the date of the most recent transfer of title. We ask that the 2008 General Assembly refrain from adopting any legislation which interferes with the ability of local governments to establish budgets and tax rates based upon local needs, or which creates built in inequalities by uncoupling property assessments for tax purposes from actual fair market values.

**Adopt Legislation Guaranteeing that at Least
\$20 Million of VDOT's Annual Revenue Sharing
Program Funding be Earmarked for Counties, with each
County Eligible to Request at Least \$1 million
in State Funding on an Annual Basis**

For years, the County has included as an item in its legislative program a request that the state's budget for the VDOT Revenue Sharing Program be increased from \$15 million to \$20 million. At long last, the 2005 General Assembly did increase the funding for revenue sharing to a total of \$50 million and the individual locality cap to \$1 million, but at the same time made cities, as well as counties, eligible for participation in the program. Thus, the pie got larger, but the number of "slices" potentially increased. Indeed, the 2005 legislation provides that no single locality may receive more than \$1 million in state revenue sharing funding, but the chance that any county will actually receive that amount is diminished by virtue of cities being made eligible. We request that you adopt appropriate legislation to reserve at least \$20 million of the annual VDOT Revenue Sharing Program appropriation for use exclusively by counties. Additionally, as with transportation funding in general, this program needs to be supported by long-term, sustainable and dedicated funding that will allow appropriations to match the legislative authorizations as was the case in the FY 2008 allocation process.

Direct the Department of Transportation to Revise Its Policy Prohibiting Localities from Using Revenue Sharing Funds for Highway Landscaping

The County was recently advised by VDOT of a new agency policy prohibiting the use of Revenue Sharing Funds to help pay for stand-alone landscaping projects. As explained by VDOT officials, this change in the Revenue Sharing Program project eligibility standards is attributable to the amendments made by the 208 General Assembly in § 33.1-23.05 that eliminated “maintenance” as an eligible project category. VDOT considers the installation of landscaping as a stand-alone project to constitute “maintenance.” In our view, the design and installation of landscaping for aesthetic and buffering purposes along existing road corridors represents something that should have been a component of the original construction or reconstruction of such roads, particularly in areas such as the Historic Triangle that serves as a host to much of the Commonwealth’s tourism industry and, therefore, warrants considerable attention to community character and image. Absent a project to reconstruct such roads, the current statute/policy seriously restricts the County’s ability to address these needs. We ask that the General Assembly amend § 33.1-23.05 and/or direct VDOT to authorize stand-alone landscaping projects as an eligible Revenue Sharing Program project type.

The Commonwealth Should Increase its Support for Virginia's Tourism Industry

Tourism has long been one of Virginia's main industries, bringing in billions of dollars in domestic traveler spending annually to the state's economy. Of those expenditures, amounts approaching \$200 million have been spent in the Historic Triangle area of Williamsburg, Jamestown and Yorktown on lodging, meals, entertainment, retail sales, and transient room occupancy. Over 200,000 Virginians are employed by the tourism industry generating approximately \$2 billion in state, federal, and local tax revenues annually in recent years. In FY08, the Virginia Tourism Corporation spent approximately \$6 million for tourism advertising, which ranks Virginia 21st among the 50 states in total tourism advertising expenditures. In light of the continued sluggishness in tourism in Virginia, we believe that there should be a substantial increase in state expenditures for tourism related advertising in order to remind the public that Virginia's historic and recreational attractions are merely an automobile ride away for millions of Americans.

Initiate a Study of the Possibility of Adoption of General Real Property Tax Relief, with a Means Test for Low Income Property Owners

Virginia's tax structure requires local governments to rely on property taxation to provide for the majority of their tax revenues. This reliance, however, creates inequities which tend to penalize low income individuals, because in a time of rising real estate values, the ownership of taxable real estate does not necessarily correlate to the taxpayer's ability to pay, particularly where the taxable real property has been owned for a substantial period of time and by someone who may now be on a fixed or low income. However, local governments have no option to create categories of taxpayers, but must assess a uniform rate of taxation against all real estate without any relief being provided for taxpayers whose incomes are low or fixed while the values of their real estate continue to soar. Rather than simply tell such taxpayers that they ought to sell their cherished homes and move into something cheaper and less desirable, it may be preferable to afford relief in the form of a real estate tax exemption with a "means test" so that, for low income property owners, all or a portion of the value of real estate used as a principal residence could be excluded from taxation. A number of states have adopted such homestead tax exemptions, and the examples are too numerous and diverse to summarize here. We ask that the General Assembly institute a study of means-based real property tax exemptions and similar forms of tax relief for low income property owners tied to median family income figures adjusted for family size as published by the U. S. Department of Housing & Urban Development, so that they can protect their homes from rising real estate taxes.

**Amend Code of Virginia Section 36-105 (C)(1)
to Authorize Localities to Enforce the Property
Maintenance Code Against Such Classes or Types
of Structures as the Locality May Elect**

The Virginia Uniform Statewide Building Code (VUSBC) consists of several parts, one of which (Part III) is the Virginia Maintenance Code, which requires existing structures to be maintained in order to combat blight and deterioration. With certain limited exceptions, adoption of the Maintenance Code is a local option. Code of Virginia § 36-105 (C)(1) authorizes localities to "enforce the provisions of the Building Code for existing buildings and structures." Nothing in the statute contains any suggestion that a locality may elect to enforce the Maintenance Code, for example against only commercial structures. The Maintenance Code itself states that it is applicable to "all existing buildings and structures and associated equipment" (Section 183, Maintenance Code). York County believes that, given the potential cost and complexity of enforcing the Maintenance Code against all structures in the locality, local governments should be given the option of adopting the Maintenance Code only as against such classes or categories of structure as the local governing body deems advisable. Attached is a proposed amendment of Code of Virginia § 36-105 (C)(1) which we believe will accomplish that end.

§ 36-105. Enforcement of Code; appeals from decisions of local department; inspection of buildings; inspection warrants; inspection of elevators.

A. Enforcement generally. Enforcement of the provisions of the Building Code for construction and rehabilitation shall be the responsibility of the local building department. There shall be established within each local building department a local board of Building Code appeals whose composition, duties and responsibilities shall be prescribed in the Building Code. Appeals from the local building department concerning application of the Building Code or refusal to grant a modification to the provisions of the Building Code shall first lie to the local board of Building Code appeals. No appeal to the State Building Code Technical Review Board shall lie prior to a final determination by the local board of Building Code appeals. Whenever a county or a municipality does not have such a building department or board of Building Code appeals, the local governing body shall enter into an agreement with the local governing body of another county or municipality or with some other agency, or a state agency approved by the Department for such enforcement and appeals resulting therefrom. For the purposes of this section, towns with a population of less than 3,500 may elect to administer and enforce the Building Code; however, where the town does not elect to administer and enforce the Building Code, the county in which the town is situated shall administer and enforce the Building Code for the town. In the event such town is situated in two or more counties, those counties shall administer and enforce the Building Code for that portion of the town which is situated within their respective boundaries. Fees may be levied by the local governing body in order to defray the cost of such enforcement and appeals.

B. New construction. Any building or structure may be inspected at any time before completion, and shall not be deemed in compliance until approved by the inspecting authority. Where the construction cost is less than \$2,500, however, the inspection may, in the discretion of the inspecting authority, be waived. A building official may issue an annual permit for any construction regulated by the Building Code. The building official shall coordinate all reports of inspections for compliance with the Building Code, with inspections of fire and health officials delegated such authority, prior to issuance of an occupancy permit.

C. Existing buildings and structures.

1. Inspections and enforcement of the Building Code. The local governing body may also inspect and enforce all or portions of the provisions of the Building Code for existing buildings and structures, whether occupied or not. *By ordinance, the local governing body may enforce the selected provisions against one or more classifications of buildings and structures, identified by use or otherwise.* Such inspection and enforcement shall be carried out by an agency or department designated by the local governing body.

2. Complaints by tenants. However, upon a finding by the local building department, following a complaint by a tenant of a residential dwelling unit that is the subject of such

complaint, that there may be a violation of the unsafe structures provisions of the Building Code, the local building department shall enforce such provisions.

3. Inspection warrants. If the local building department receives a complaint that a violation of the Building Code exists that is an immediate and imminent threat to the health or safety of the owner or tenant of a residential dwelling unit or a nearby residential dwelling unit, and the owner or tenant of the residential dwelling unit that is the subject of the complaint has refused to allow the local building official or his agent to have access to the subject dwelling, the local building official or his agent may present sworn testimony to a magistrate or a court of competent jurisdiction and request that the magistrate or court grant the local building official or his agent an inspection warrant to enable the building official or his agent to enter the subject dwelling for the purpose of determining whether violations of the Building Code exist. The local building official or his agent shall make a reasonable effort to obtain consent from the owner or tenant of the subject dwelling prior to seeking the issuance of an inspection warrant under this section.

4. Transfer of ownership. If the local building department has initiated an enforcement action against the owner of a building or structure and such owner subsequently transfers the ownership of the building or structure to an entity in which the owner holds an ownership interest greater than 50%, the pending enforcement action shall continue to be enforced against the owner.

D. Elevator inspections. The local governing body shall, however, inspect and enforce the Building Code for elevators, except for elevators in single- and two-family homes and townhouses. Such inspection shall be carried out by an agency or department designated by the local governing body.

Amend Virginia Code § 46.2-1094 to Allow Enforcement of Adult Seatbelt Requirement as a Primary Offense

Code of Virginia § 46.2-1094 requires each person at least 16 years of age and occupying the front seat of a motor vehicle to wear the appropriate safety seatbelt system at all times when the motor vehicle is in operation, provided that the motor vehicle is one which is required to be equipped with seatbelts. However, subsection (F) of § 46.2-1094 provides that no law enforcement officer can issue a citation for a violation of the adult seatbelt law unless the officer has cause to stop or arrest the driver of the motor vehicle for some other violation of the law. Traffic safety statistics have demonstrated over many years that the use of seatbelts is a significant factor in the reduction of injuries and fatalities on the nation's highways. We believe that in order to promote public safety, Virginia Code § 46.2-1094 should be amended by deleting subsection (F) as shown on the attached example.

Proposed amendment of § 46.2-1094. Primary enforcement of adult seatbelt law.

§ 46.2-1094. Occupants of front seats of motor vehicles required to use safety lap belts and shoulder harnesses; penalty.

A. Each person at least sixteen years of age and occupying the front seat of a motor vehicle equipped or required by the provisions of this title to be equipped with a safety belt system, consisting of lap belts, shoulder harnesses, combinations thereof or similar devices, shall wear the appropriate safety belt system at all times while the motor vehicle is in motion on any public highway. A child under the age of sixteen years, however, shall be protected as required by the provisions of this chapter.

B. This section shall not apply to:

1. Any person for whom a licensed physician determines that the use of such safety belt system would be impractical by reason of such person's physical condition or other medical reason, provided the person so exempted carries on his person or in the vehicle a signed written statement of the physician identifying the exempted person and stating the grounds for the exemption; or
2. Any law-enforcement officer transporting persons in custody or traveling in circumstances which render the wearing of such safety belt system impractical; or
3. Any person while driving a motor vehicle and performing the duties of a rural mail carrier for the United States Postal Service; or
4. Any person driving a motor vehicle and performing the duties of a rural newspaper route carrier, newspaper bundle hauler or newspaper rack carrier; or
5. Drivers of taxicabs; or
6. Personnel of commercial or municipal vehicles while actually engaged in the collection or delivery of goods or services, including but not limited to solid waste, where such collection or delivery requires personnel to exit and enter the cab of the vehicle with such frequency and regularity so as to render the use of safety belt systems impractical and the safety benefits derived therefrom insignificant. Such personnel shall resume the use of safety belt systems when actual collection or delivery has ceased or when the vehicle is in transit to or from a point of final disposition or disposal, including but not limited to solid waste facilities, terminals, or other location where the vehicle may be principally garaged; or

7. Any person driving a motor vehicle and performing the duties of a utility meter reader; or

8. Law-enforcement agency personnel driving motor vehicles to enforce laws governing motor vehicle parking.

C. Any person who violates this section shall be subject to a civil penalty of twenty-five dollars to be paid into the state treasury and credited to the Literary Fund. No assignment of demerit points shall be made under Article 19 of Chapter 3 (§ 46.2-489 et seq.) of this title and no court costs shall be assessed for violations of this section.

D. A violation of this section shall not constitute negligence, be considered in mitigation of damages of whatever nature, be admissible in evidence or be the subject of comment by counsel in any action for the recovery of damages arising out of the operation, ownership, or maintenance of a motor vehicle, nor shall anything in this section change any existing law, rule, or procedure pertaining to any such civil action.

E. A violation of this section may be charged on the uniform traffic summons form.

~~F. No citation for a violation of this section shall be issued unless the officer issuing such citation has cause to stop or arrest the driver of such motor vehicle for the violation of some other provision of this Code or local ordinance relating to the operation, ownership, or maintenance of a motor vehicle or any criminal statute.~~

~~G~~F. The governing body of any city having a population of at least 66,000 but not more than 67,000 may adopt an ordinance not inconsistent with the provisions of this section, requiring the use of safety belt systems. The penalty for violating any such ordinance shall not exceed a fine or civil penalty of twenty-five dollars.

Amend the Code of Virginia to Prohibit the Possession of an Open Container of Alcohol in a Motor Vehicle.

The so-called “open container bill” was introduced in the 2008 session as HB 27 and would have added a new section numbered 46.2-800.2 to provide that no person shall possess an alcoholic beverage in the passenger area of a motor vehicle upon a public highway in other than the manufacturer’s unopened, original container. The bill punishes violators with a civil penalty of \$25. The bill died in committee (Militia, Police and Public Safety).

The purpose of the bill is to reduce drunk driving. As part of the Transportation Equity Act for the 21st Century Restoration Act, a federal program was established to encourage states to enact and enforce laws that prohibit the possession and consumption of alcoholic beverages in the passenger areas of motor vehicles. In York County, alcohol-related crashes were responsible for forty percent of traffic fatalities (32 deaths) in the last ten years.

Please reintroduce, and adopt, HB 27.

Amend the Code of Virginia to Prohibit or Restrict the Use of Hand-held Cell Phones and/or Text Message Devices by Drivers While Operating a Motor Vehicle

Two bills were introduced in the 2008 session – HB 39 and HB 609 – that would have amended the Code of Virginia by adding a section numbered 46.2-1078.1 to prohibit any person from operating a motor vehicle, bicycle, electric personal assistive mobility device, electric power-assisted bicycle, or moped on the highways in the Commonwealth while using any wireless telecommunications device for the purpose of sending, receiving, or reading any text message. Both bills were referred to the House Committee on Transportation, where they failed.

The use of hand-held cell phones while driving is prohibited in Connecticut, New Jersey, New York, Washington D.C., and on U.S. military bases. According to the National Highway Transportation Safety Administration (NHTSA), “[r]esearch shows that driving while using a cell phone can pose a serious cognitive distraction and degrade driver performance. The data are insufficient to quantify crashes caused by cell phone use specifically, but NHTSA estimates that driver distraction from all sources contributes to 25 percent of all police-reported traffic crashes.” NHTSA is conducting further studies on the use of cell phones; the hazards of text messaging while driving, however, appear to be fairly obvious.

Please reintroduce, and adopt legislation similar to last year’s HB 39 and HB 609.

Maintain the State's Support For Education and Fully Fund the Standards of Quality

The State should revise the concept of the Standards of Quality to recognize the public demand for quality education in Virginia is far in excess of the low minimum standards established by the SOQs. Although the Commonwealth bases its funding of local education on the SOQs, those standards do not begin to recognize the actual educational needs of Virginia localities. York County is probably typical among Virginia jurisdictions in providing \$44,736,097 or \$14,895,969 more than the required amount of local funding for the operation of its schools, simply because the citizens of York County would never be satisfied with the level of public education which merely met, and did not significantly exceed, the levels established by the SOQs. Including debt service and capital outlay, the locality provides \$52,936,097 or \$23,095,969 more than the required SOQ funding amount.

State funding mechanisms do not recognize actual teacher salaries in York County or the full extent of costs for special education, technology, or other significant components of any quality educational program. For example, in FY01 total actual special education costs in York County totaled \$7.1 million. For that same fiscal year, State funding for special education was \$2 million, or less than 30% of the total cost. Additionally, over the past six years, York County has spent more than \$20 million on hardware and infrastructure for instructional technology. The State provided \$2.6 or 13% of that funding. The remaining \$17.4 million was funded by the citizens of York County.

Provide Support For the Continued Presence in Virginia of Military and Other Federal Facilities

The welcome presence of federal offices and installations in the Commonwealth, including but not limited to the military forces in Hampton Roads, provides a vital economic asset to Virginia. However, in recent years, the federal government has studied the possible removal of some of these facilities, and as a result the most recent BRAC Committee has determined to close Fort Monroe and to consolidate other military functions in ways that could prove detrimental to Virginia. York County believes that the continued presence in Virginia of federal programs and installations should be encouraged, and we ask the General Assembly to provide adequate funding and support to help sustain the federal presence in Virginia, and to compete for the location in Virginia of any additional facilities that may be proposed.

Maintain and Fully Fund the Vital State and Local Partnerships for Critical Services

State and local governments have long-standing partnerships for the delivery of diverse and critically needed services to citizens of the Commonwealth. In some areas these services are amongst the most costly expenditures for state and local governments. In recent sessions the General Assembly has reduced state funding or shifted further responsibilities to localities. In some areas, such as mental health, this has had significant repercussions. Based on these trends and experiences, the Board of Supervisors asks that the General Assembly:

- Continue operating and increase funding for a statewide mental health system, including long-term residential facilities for adults and adolescents; establish a juvenile corrections/forensics unit.
- Not divert children in need of mental health services from the state and locally funded mental health system to the Comprehensive Services Act (CSA); assure that Community Services Boards make mental health services to children and adolescents a priority.
- Increase funding to localities for the costs of administering the CSA.
- Oppose any local match for Medicaid.
- Support through funding and regulation programs and initiatives to increase the affordability of housing in the Commonwealth.
- Provide adequate funding for locally operated programs that are alternatives to secure juvenile detention or commitment to state corrections facilities.
- Provide full funding for State Aid to Public Libraries, Constitutional Officers, Juvenile and Adult Corrections and other areas of shared responsibility.

Attached is the *2008–09 Legislative Analysis* of state and local partnerships which more particularly describes financial and administrative actions which the Board of Supervisors urges the General Assembly to consider.

In addition, the Commonwealth has for many years underfunded its obligations to support the operation of local constitutional officers.

While we acknowledge the reality and gravity of the fiscal crisis confronting the Commonwealth, we ask that the General Assembly recognize that local governments cannot absorb the State's budget deficit by taking on unfunded mandates. If localities are asked to shoulder an increased share of State programs, localities should be provided either with resources sufficient to the task, or additional tools for generating revenues to pay for such programs.

Increase Alcohol Safety Action Program Enrollment Fees

Local ASAP programs across the Commonwealth have not seen an increase in enrollment fees in the Virginia Code (18.2-271.1) since 1985.

Currently, the Code allows for court orders to state a fee of “...no less than \$250 but not more than \$300” for persons entering the program. Although most all courts now allow the maximum amount of \$300 to be charged, this enrollment fee is meant to cover a minimum of twelve months of probationary monitoring while the referred person is under its supervision, usually during the same time period that they are allowed to have a restricted operator’s license.

During the 23 years since this fee was increased, local programs have had increasing costs. In addition, although the state administrative fee, which is returned to the state Commission on VASAP office, has decreased during this time from 10% to 6%, and more recently 3%, these reductions are not sufficient to cover the costs and mandates for which the local programs are responsible.

Local programs have small reserves, but they are held, with local Policy Board approval, to cover any unforeseen revenue shortfalls, and are not adequate for programs to hire the additional staff needed to decrease the caseloads and provide more education about the dangers of drinking and driving.

Currently, there is no specific recommendation as to the amount of increase for the enrollment fee, but legislative support for an increase in the fee will be crucial to the survival of the local programs.

Improve the efficiency of stormwater, water quality, and erosion and sediment control regulation

There are a number of laws, and authoritative and regulatory bodies that dictate what local governments must do in regard to stormwater, water quality, and erosion and sediment control. For example the County is subject to the federal Clean Water Act, and the state Chesapeake Bay Protection Act, and must deal with the federal Environmental Protection Agency, the state Department of Marine Resources, and the state Department of Environmental Quality. At times this makes it necessary to deal with multiple agencies and regulations when addressing a single issue. The Board of Supervisors request that the General Assembly engage in negotiations with the United States government, to adopt appropriate legislation in coordination with the U.S. Congress, to better coordinate and streamline the federal and state regulatory efforts. We also request that a portion of any savings generated from a more efficient regulatory process be passed to local governments for direct service delivery.

2008-09 Legislative Analysis

State and Local Service Partnerships

A.B. Smith, Community Services Director
York County Legislative Liaison

State and local governments have long-standing partnerships for the delivery of diverse and critically needed services to citizens of the Commonwealth. In some areas these services are amongst the most costly expenditures for state and local governments. Based on recent trends and experiences during previous sessions of the General Assembly, the following issues should be considered as the County prepares for the coming session:

I. Mental Health:

Behavioral Health Care must be accomplished through both a state-wide, Commonwealth operated system and an adequately funded community based system of care.

Issue: The Commonwealth should maintain, fully fund and continue to operate a Statewide Mental Health System, to include residential facilities for long-term care of adults and adolescents.

Issue: The Commonwealth should provide funding sufficient to allow Community Services Boards to adequately meet the charge of providing a community based system of care.

Issue: The absence of sufficient funding for community based care; prevention programs and adequate mental health inpatient treatment facilities has had a critical impact on the criminal justice system. By default, corrections facilities are becoming mental health treatment centers.

During recent years there has been a continuing trend toward reorganization and downsizing of the State Mental Health care system. It is important to recognize that such downsizing has both a service and financial impact on localities.

- ◆ The state is presently responsible for costs associated with institutions. With recent significant downsizing, there is limited ability to hospitalize patients in a state facility. Localities should be very concerned about where those in need of psychiatric hospitalization will go in the future and who will be responsible for payments for that care. Additionally, current patients should not be released into the community without state funding sufficient to pay for service needs.

Eastern State Hospital, which has significantly downsized in past years; most recently closed 43 beds and is scheduled to close an additional 90 beds to only 150 by June 2010. There is

no indication of a state plan to address the disposition of those patients, the lack of residential bed space or adequate funding for alternative services and care.

- ◆ All adolescent units have closed with the exception of a short-term (6 weeks) diagnostic and minimal stabilization facility. This leaves the ever-increasing numbers of very seriously disturbed children with no alternatives for residential care other than expensive private placements, usually cooperatively funded by state-local governments under the Comprehensive Services Act (CSA). In addition, there is an extremely high incidence of youth with mental health disorders in secure juvenile detention centers.
- ◆ Left untreated, mental health disorders and substance abuse frequently result in behaviors that bring individuals to the attention of law enforcement agencies and the Courts. Disturbed adults and juveniles are being found in increasing numbers in corrections facilities rather than mental health facilities. Additionally, we are finding that substance use and addiction upon entry is profoundly problematic and medical detoxification is becoming increasingly necessary. Local corrections staff are becoming mental health and substance abuse services deliverers. Local governments are increasingly funding treatment professionals within adult jails and in secure and other residential juvenile facilities.
- ◆ Actions in the 2007 and 2008 sessions of the General Assembly and subsequent Attorney General opinions have re-directed many children and adolescents to the Comprehensive Services Act (CSA) for mental health services. This effectively creates a parallel mental health delivery system and significantly increases an already extremely expensive CSA program without corresponding reduction of costs in the Community Services Board system.

Recommendations:

Some services are best run statewide. This is particularly true of a mental health system. It is the responsibility of the Commonwealth to provide for behavioral health care in an appropriate mental health system not a corrections environment. The Commonwealth must assure the delivery of this care by operating a statewide system of inpatient treatment centers and by adequately funding a community based system of care.

The General Assembly should:

1. Maintain, fully fund and continue to operate a Statewide Mental Health System, to include inpatient treatment facilities for long-term care of adults and adolescents. As well, prevention services care and coordination of after care should be expanded.
 2. Provide funding sufficient to allow Community Services Boards to adequately meet the charge of providing a community based system of care.
 3. Reinstate juvenile inpatient mental health and substance abuse treatment facilities.
 4. Provide mental health services to children and adolescents through the existing mental health system and not create a parallel system in the CSA.
 5. Assure adequate access to inpatient care for the transfer of adult offenders from jails to mental health facilities.
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II. Comprehensive Services Act (CSA)

In 1992, the General Assembly adopted the Comprehensive Services Act (CSA). This took funds used for services for seriously dysfunctional children and their families from various state agencies and combined them in a single revenue stream with a required local government match. The CSA has resulted in an increased administrative burden for localities with only the most minimal fiscal support from the state. Further, it has blurred lines of responsibility and fiscal accountability at the agency level, reducing the capacity to control costs. The difficulty in predicting necessary funding levels to support mandated services has creased significantly.

Recommendations:

The General Assembly should:

1. Maintain the distinction between mandated and non-mandated children to be served with CSA funds and keep service to non-mandated populations a local option.
 2. Recognize the high cost of residential treatment that has resulted from the closing of state run mental health facilities and the transfer of portions of the costs to local governments under the CSA.
 3. Recognize the intense administrative burdens on local governments that accompany the implementation of the CSA and increase the administrative reimbursement to localities.
 4. Remove the local match requirement for Medicaid that was imposed in 2000 in the CSA – in all other areas Medicaid is a state and federal funded program and the CSA is the only instance of required local government Medicaid match.
 5. Not use the CSA to create a duplicative mental health delivery system.
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III. Juvenile Justice System

Issue: *Meet fiscal responsibilities for those programs that are state-local partnerships.*

The Virginia Juvenile Community Crime Control Act (VJCCCA) is the Commonwealth's funding stream for the State-Local Partnership that provides vital programs for juvenile offenders. This partnership provides options to secure detention or incarceration in a state juvenile corrections facility and consequently provides the Commonwealth with a cost-effective mechanism for meeting state obligations. When this partnership was first established the Commonwealth funded the majority of costs. The 2002 General Assembly reduced VJCCCA funding by 51%. These funds have never been restored and have continued to erode. The State share of funding for the programs that York County operates on behalf of a regional collaboration is now approximately 19%.

Issue: *Adequate funding for Juvenile Detention facilities and direct funding for on- site mental health and substance services.*

Secure juvenile detention centers are necessary for the public safety and are partnerships between the Commonwealth and local government. In recent years there has been significant shifting of the State's share of operations costs to the local partner. In addition, a larger number of offenders who would otherwise be in state corrections centers are remaining in local facilities through the State's increased emphasis on "community corrections" and further, an ever increasing number of incarcerated juveniles have mental health problems and should actually be in mental health facilities rather than detention centers.

Recommendations:

The General Assembly should honor its commitment to the state and local partnership by:

1. providing adequate funding for programs implemented under the VJCCCA and for secure detention centers
 2. Provide a juvenile forensics unit.
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IV. Aging:

Aging of the general population represents a significant challenge for both state and local governments. The Appropriations Act adopted by the 2007 General Assembly directed the Secretary of Health and Human Resources to study the Commonwealth's service delivery system for the elderly. Those services are presently dispersed amongst such state agencies as the Departments of Aging and Social Services. York County staff represented the Virginia Municipal League on the study. The Commission completed its work in the fall of 2007. At this time there is no indication that the recommendations of that study will be implemented. Further, this is the sole aging study to have been completed recently and there has been no comprehensive study of services or needs of the elderly during recent years.

Recommendations:

The General Assembly should:

1. Support an expanded role for the Virginia Department of Aging.
 2. Assure that a state-wide plan for aging be developed.
 3. Assure the establishment and implementation of comprehensive standards of care for increasingly important adult homes and assisted living facilities.
 4. Support programs and measures that provide for the availability of diversified housing types to meet the needs of an aging population.
 5. Recognize and prepare for the impact on the workforce that will occur with a potentially massive loss of employees to retirement over a relatively short period of time.
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V. Housing

Affordable housing is a continuing and growing concern throughout the Commonwealth. In addition, the current housing market crisis places many citizens who are already homeowners at great risk. Foreclosures affect individual families; have a negative impact on entire neighborhoods and communities; and strain publicly funded state and local services. York County has established a Foreclosure Prevention Counseling Program in efforts to be proactive. The Commonwealth should support and promote such activities.

Recommendations:

The General Assembly should:

1. Recognize both in funding and in regulatory action, that affordability does not have a single solution but is driven by the cost of land, construction and money.
 2. Support initiatives that provide opportunities for rental and homeownership and recognize that housing rehabilitation activities help keep citizens in homes they already own and are therefore directly related to affordability.
 3. Continue support for programs offered through the Virginia Department of Housing and Community Development (VDH&CD) and the Virginia Housing development Authority (VHDA).
 4. Adopt legislation to permit localities to offer real estate tax relief with a means test for non-elderly.
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VI. Support for Tourism

Tourism not only supports an important industry in Virginia but also directly generates revenue streams which are used to offset the costs of various other services. State support for Tourism is extremely low given the potential for beneficial economic impact. The total budget for the Virginia Tourism Corporation is \$16.1 million (down from \$19 million last year) and the budget for advertising and promotion is only \$3.5 million. The localities of the Historic Triangle alone provide funding for promotion that exceeds the total state budget.

VII. Funding for Libraries, Arts, Parks and Recreation, and other partnerships

State support for a wide range of services that have traditionally been state and local partnerships has drastically declined during the past several decades. These elements certainly enhance the quality of life for citizens in the Commonwealth but also directly affect the ability to attract or retain business and industry. Even as funding from our State partner has declined, regulatory requirements or administrative demands have increased substantially. The General Assembly should fully fund the state share of partnerships in all such areas.